

Officers, Officials, and Employees

A. THE SPEAKER

§ 1. Introductory

The Speaker of the House of Representatives is the central political leader in the House and one of the most powerful and influential institutional figures in the United States government.

This subchapter describes the nature of the office of the Speaker, outlines his jurisdiction and duties, and illustrates various limitations on the Speaker's powers.

Throughout the subchapter, appropriate cross references are given to other chapters wherein fuller treatment of the various substantive areas are found.

Certain precedents involving the Chairman of the Committee of the Whole have been included herein where they appear to be applicable, by way of analogy, to the Speaker.

§ 2. Definition and Nature of Office

Article I, section 2, of the U.S. Constitution provides that "the House of Representatives shall

choose their Speaker."⁽¹⁾ The Member elected by the House as Speaker is almost invariably the Member chosen in the caucus or conference of the majority party in the House.⁽²⁾

The term of office of the Speaker begins upon his election and taking of his oath of office. The term ends upon the expiration of the Congress to which the Member was elected Speaker, unless the Speaker has resigned, died, or been removed by the House.⁽³⁾

The Member chosen as the Speaker is the presiding officer of the House, charged with numerous duties and responsibilities by law and by House rules as will be ex-emplified in this subchapter;⁽⁴⁾

1. See Ch. 1, *supra*, for treatment of the election of the Speaker.
2. See Ch. 3, *supra*, for treatment of the party caucus or conference procedures to select a nominee for Speaker.
3. "A Speaker may be removed at the will of the House. . . ." Jefferson's *Manual, House Rules and Manual* §315 (1973). *Parliamentarian's Note*: The House has never removed a Speaker, however.
4. See §§ 3, 5–8, *infra*.

but he is not unlimited in the exercise of his various powers.⁽⁵⁾ In one sense, he represents the House as one body of Congress. For example, he signs all acts and joint resolutions for the House.⁽⁶⁾ In another sense he represents the House as a single entity acting separately from any Senate action. For example, he has a formal part in initiating contempt of House proceedings against recalcitrant witnesses.⁽⁷⁾ In still another sense he represents all of the individual Members of the House.⁽⁸⁾ The Member elected Speaker also represents the membership in such matters as accepting service of subpoena in his official capacity.⁽⁹⁾

The Speaker also serves as the official recipient of numerous reports made to Congress pursuant to law. For instance, he receives

reports concerning various matters from the President,⁽¹⁰⁾ and from various department heads and Cabinet Secretaries, including the Secretaries of the Treasury,⁽¹¹⁾ Agriculture,⁽¹²⁾ Defense,⁽¹³⁾ and Interior,⁽¹⁴⁾ as well as the Board of Governors of the Federal Reserve System.⁽¹⁵⁾ Pursuant to House rules⁽¹⁶⁾ the Speaker is provided a list of such reports to be made to the Congress⁽¹⁷⁾ and, although the reports may not under law be specifically required to be addressed to him, in practice all such reports are addressed to the Speaker for his reference to appropriate House committees, a function he may delegate to the House Parliamentarian.

The Member chosen as Speaker also serves in such capacities as an ex officio member of the Presidential Election Campaign Fund Advisory Board.⁽¹⁸⁾

5. See §4, *infra*.

6. Rule I clause 4, *House Rules and Manual* §§624 and 625 (1973). See Ch. 24, *infra*, for fuller treatment of the Speaker's role in the signing of bills, joint resolutions, etc.

7. See §3.41, *infra*.

8. See Ch. 29, *infra*, for fuller treatment of the Speaker's role in the House's consideration and debate of legislative measures.

9. See §3.39, *infra*. See Ch. 11, *infra*, for treatment of the Speaker's role with respect to service of subpoenas on the House, Members, and House officers and employees.

10. See 7 USC §1703; 22 USC §§1853, 2261, 2318, and 2753. See Ch. 35, *infra*, for treatment of communications to or from the executive branch.

11. See 6 USC §14 and 16 USC §1081.

12. See 7 USC §2155.

13. See 10 USC §2358 note.

14. See 16 USCA §469e.

15. See 12 USCA §247.

16. Rule III clause 2, *House Rules and Manual* §640 (1973).

17. See for example H. Doc. No. 93-21, 93d Cong. 1st Sess. (1973).

18. 26 USCA §9021.

The Speaker's compensation is fixed by law.⁽¹⁹⁾ Statutes provide the Speaker with an expense allowance,⁽²⁰⁾ a postage allowance,⁽¹⁾ a mileage allowance for travel to and from each regular session,⁽²⁾ a stationery allowance,⁽³⁾ telephone, telegraph, and radiotelegraph allowances,⁽⁴⁾ clerk-messengers,⁽⁵⁾ and additional compensation for personal services in his office.⁽⁶⁾

The amounts of allowances to the Speaker for clerk hire,⁽⁷⁾ postage stamps, stationery, telephone and telegraph, office space, and official office expenses in his home district and for similar items in his Washington office may from time to time be adjusted by the Committee on House Administration.

The Member chosen as Speaker retains his status as a Member, and thus, for example, may introduce legislation as a Member.⁽⁸⁾

19. See 2 USC § 31. See Ch. 7, *infra*, for treatment of Members' compensation and allowances.

20. See 2 USC § 31b.

1. See 2 USC §§ 42, 42c, and 42d.

2. See 2 USC §§ 43, 43b, and 43b-1.

3. See 2 USC § 46b.

4. See 2 USC §§ 46g and 46g-1.

5. See 2 USC § 74-2.

6. See 2 USC § 74-1.

7. See 2 USC § 57.

8. See § 2.2, *infra*. See Ch. 16, *infra*, for treatment of the introduction of bills, etc.

But he also attains a new status along with his additional duties. Most significantly, he enters into the line of succession to the Presidency. When, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor a Vice President, the Speaker, upon his resignation as Speaker and as a Representative, becomes the acting President of the United States.⁽⁹⁾ Thus the Speaker is subject to being protected by the United States Secret Service.⁽¹⁰⁾

Former Speakers of the House have been provided clerk hire, administrative assistants,⁽¹¹⁾ the use of an automobile,⁽¹²⁾ and federal office space and related allowances and expenses for a prescribed time limit after retirement.⁽¹³⁾

Upon the death of a Speaker holding office, the flag of the United States is flown at half staff.⁽¹⁴⁾

Speaker as Representative of the Members

§ 2.1 House rules⁽¹⁵⁾ and practice dictate that Members

9. 3 USC § 19.

10. 18 USC § 3056.

11. See § 2.3, *infra*.

12. See § 2.4, *infra*.

13. See § 2.5, *infra*.

14. 36 USC § 175 note; Proc. No. 3044.

15. Rule XIV clause 1, House Rules and Manual § 749 (1973).

should address the Speaker in debate, and no other persons, inasmuch as the Speaker is said to represent all of the Members of the House for such purpose.

On Jan. 12, 1932,⁽¹⁶⁾ Speaker John N. Garner, of Texas, discussed the proper way for a Member to preface his remarks to the House.

THE SPEAKER: The Chair is in entire sympathy with the remarks made by the gentleman from Massachusetts [Mr. Luse]. It is supposed to be a slight upon the Chair, according to the expressions of former Speakers of the House, when Members address the Chairman of the Committee of the Whole or the Speaker and then address the Members on the floor en masse. The Speaker represents the House of Representatives in its organization, and by addressing the Chair gentlemen address the entire membership of the House.

Sponsorship of Bills

§ 2.2 Although traditionally the Speaker refrains from sponsoring public bills containing subject matter of a general import, he has on occasion introduced a public bill pertaining solely to a matter within his congressional district.

16. 75 CONG. REC. 1815, 72d Cong. 1st Sess.

On May 21, 1970,⁽¹⁷⁾ a public bill was introduced by Speaker John W. McCormack, of Massachusetts:

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows: . . .

By Mr. McCormack:

H.R. 17750. A bill to declare the tidewaters in the waterway of the Fort Point Channel lying between the northeasterly side of the Summer Street highway bridge and the easterly side of the Dorchester Avenue highway bridge in the city of Boston nonnavigable tidewaters, to the Committee on Interstate and Foreign Commerce. . . .

Former Speakers' Benefits

§ 2.3 Former Speakers have been provided clerk hire and administrative assistants through the contingent fund of the House.

On Jan. 12, 1959,⁽¹⁸⁾ a resolution was adopted regarding benefits for former Speakers of the House.

Resolved, That effective January 7, 1959, there shall be payable from the contingent fund of the House, until otherwise provided by law, for any Member of the House who has served as Speaker of the House, an additional \$5,000 basic per annum for clerk hire,

17. 116 CONG. REC. 16643, 91st Cong. 2d Sess.

18. 105 CONG. REC. 559, 86th Cong. 1st Sess.

and in addition an administrative assistant at the basic rate of \$8,880 per annum.

THE SPEAKER:⁽¹⁹⁾ Without objection, the resolution is agreed to.

There was no objection.

§ 2.4 Former Speakers have been provided the use of automobiles through the contingent fund of the House.

On Jan. 12, 1959,⁽²⁰⁾ a resolution was adopted regarding benefits for former Speakers of the House.

Resolved, That there shall be paid out of the contingent fund of the House, until otherwise provided by law, expenses necessary for the purchase, maintenance, operation, and driving of an automobile for the use of any Member of the House who has served as Speaker of the House.

THE SPEAKER⁽²¹⁾ Without objection, the resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

§ 2.5 Upon retirement, a former Speaker was provided with federal office space and related expenses and allowances.

On Dec. 22, 1970,⁽²²⁾ a resolution was called up providing that

19. Sam Rayburn (Tex.)

20. 105 CONG. REC. 559, 86th Cong. 1st Sess.

21. Sam Rayburn (Tex.).

22. 116 CONG. REC. 43313, 43314, 91st Cong. 2d Sess.

upon its enactment the Speaker of the 91st Congress, Mr. John W. McCormack, of Massachusetts, would upon his retirement be entitled to, among other things: (1) federal office space, (2) an office expense of \$100 per month, (3) frank mail privileges, (4) a local telephone allowance, (5) salaries for two secretaries, and (6) a stationery allowance without cash withdrawal, all to be financed from the contingent fund of the House. After some debate, the resolution was passed.

§ 3. Jurisdiction and Duties

The Speaker's jurisdiction and duties are found in numerous statutes and, of course, throughout the House rules.

Generally speaking, the Speaker's jurisdiction and duties relate to the House rules, the Members, and the dignity and prerogatives of the House.⁽¹⁾

At the beginning of a Congress, the Speaker normally administers the oath of office to the new Members.⁽²⁾ When a Speaker pro tem-

1. See § 3.1. *infra*.

2. See § 3.2, *infra*, and 2 USC § 25 (1973). See Ch. 1, *supra*, for treatment of the Speaker's role in the assembly of Congress.